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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,820	09/26/2001	Katia Bredo	CM2436	1206

27752 7590 05/07/2003

THE PROCTER & GAMBLE COMPANY
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EXAMINER

WINTER, GENTLE E

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/963,820

Applicant(s)

BREDO ET AL.

Examiner

Gentle E. Winter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 10
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. No arguments were made with respect to the instant amendment, as such no response is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 15, 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Japanese Patent No. 2000 093338A ('338) to Kanetsuna.
3. Claim 15 discloses a device (disclosed as element 1 in '338) containing a liquid, said device comprising an inlet (disclosed as a water supply port element 2), a pumping means (disclosed as element 5 in '338) that is in fluid communication with said inlet (2). Further both the references and claim 15 disclose a jet nozzle (element 4) in fluid communication with said pumping means (5) such that the discharge of a liquid through said jet nozzle (4) and a reservoir filled with cleaning solution, (element 16) wherein said reservoir is in fluid communication with the pumping means (element 5), and at least a spray nozzle (3) for discharging said cleaning solution, wherein said spray nozzle is in fluid communication with said pumping means. It is noted that the future intended uses recited relative to bathtubs and relative floatation levels are given little patentable weight, especially since there has been no indication as to what fluid is

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contemplated. Seemingly a recitation of the liquid's density would provide so indicia of what constitutes "above" and "below" the surface.

4. With respect to claims 18 and 19, disclosing that the spray nozzle is connected to a rotating spray head in paragraph 6 of the translated '338 patent, the patent discloses that it is desirable to form the nozzle section 4 to allow for free rotation, thus allowing for the exposure of all corners. The rotating head (4) is disclosed in paragraph 6 as rotating around a rotational axis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over '338 and United States Patent No. 6,039,886 to Henkin. Claim 16 further limits claim 15 by disclosing that the pumping means is "battery operated". As a preliminary matter '338 discloses a power cord. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute a portable power source (read batteries), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Notwithstanding the overt obviousness of such a selection Henkin provides an explicit teaching of the missing element, and the motivation for making the instant combination. Henkin describes a device equipped with an energy storage means. The electric source such is disclosed

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as solar cells and/or rechargeable batteries and/or a wire extending to the unitary body from an external power source (see *e.g.* abstract). The artisan would have been motivated to make the combination so that the batteries can be charged from solar cells carried by the unitary body or via electric terminals in an appropriately configured docking station.

6. As to claim 17, disclosing that there is a filter in fluid connection with the inlet and the pump. Again, the addition of a filter to a water recirculating cleaning system is disclosed throughout the prior art of record. Nonetheless, in the interests of completeness Henkin discloses a cleaner, which draws water in, passes the water through a filter, and thereafter expels the water see *e.g.* column 9, line 25 *et seq.*

7. As to claim 20, further limiting claim 19 and disclosing that the device includes a self-tracking means. "Self tracking means" is read in light of the instant specification see *e.g.* page 14 line 5 *et seq.* Henkin discloses a self tracking means wherein the device is capable of floating and actively moving and comprising a unitary body having a level control subsystem for selectively moving the body to a position either proximate to the surface of the water pool or proximate to the interior surface of the containment wall, a propulsion subsystem operable to selectively propel the body in either a forward or rearward direction. The artisan would have been motivated to make the instant combination in an attempt to clean a larger surface area by moving the cleaning device.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gentle E. Winter whose telephone number is (703) 305-3403. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (703) 308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Gentle E. Winter
Examiner
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April 22, 2003

A handwritten signature in black ink, appearing to read "Randy Gulakowski". The signature is fluid and cursive, with the first name "Randy" and last name "Gulakowski" clearly distinguishable.

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700